

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of

Michael Antoine Joseph Caroline BELL et al.

Serial No.: 10/522,471

Filed: May 26, 2005

For: SEAL ASSEMBLY

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Group Art Unit: 3673

Examiner: Alison K. Pickard

VIA EFS-WEB

Commissioner for Patents

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REPLY BRIEF IN RESPONSE TO EXAMINER'S ANSWER UNDER 37 C.F.R. §41.41

Sir:

This is a Reply Brief in response to the Examiner's Answer dated May 13, 2009.

As an initial matter, the Examiner notes that the objection of claims 5-13 is not appealable since these claims were not rejected. The Examiner has argued that this is more appropriately an issue for petition to the Director. Claims 5-13 depend on independent claim 1, which is patentable over the cited art for the reasons described above and in the previously filed Appeal Brief. Thus, claims 5-13 are also allowable in their present form, and thus, the reason for objection does not apply.

Specifically, in the present Reply Brief, Applicants reply to the "Response to Argument" section which is presented at pages 4-6 of the Examiner's Answer.

Claims 1-3 and 14-16 stand rejected under 35 U.S.C. § 103 as allegedly being unpatentable over the Innovations Article in view of Bousche. As has been set forth previously, the art relied on by the Examiner fails to show or suggest a seal in the annular space and operable for sealing the annular space, "wherein the seal under the normal operating conditions of the inner pipe and the annular space is in a non-sealing position which allows passage of a gas through the seal assembly," as is required by claim 1 of the present application.

The Examiner repeats his argument that the pipes and annular space allegedly disclosed in the Innovations Article are capable of transmitting gas during operation. However, as was noted in Applicant's Appeal Brief, it is clear in light of both the previously filed Declaration under 37 C.F.R. §1.132 of Sylvain Denniel, who is one of the authors of the Innovations Article and in light of the Examiner's own statements at page 2 of the May 29, 2008 Office Action, that the seals described in the Innovations Article do not allow gas to pass through the annular space during normal operation. Thus, the Examiner's argument that the seals are capable of transmitting gas is clearly unsupported since the seals do not do so, and there is no suggestion that they could.

Indeed, the Examiner's Answer itself states that "the seals disclosed in the article are in (at least light) contact with both the pipes and therefore would not allow gas to pass." Thus, the Examiner has again admitted that the seals in the Innovations Article do not allow gas to pass. Whether the seal is activated by liquid or not, is irrelevant since, as the Examiner has repeatedly admitted, the seals of the Innovations Article simply do not allow gas to pass under normal operating conditions, and thus, the Innovation Article clearly does not disclose a seal in the annular space and operable for sealing the annular space, "wherein the seal under the normal operating conditions of the inner pipe and the annular space is in a non-sealing position which allows passage of a gas through the seal assembly," as is required by claim 1 of the present application.

The Examiner further argues that Bousche teaches an installation technique that binds a seal until it is needed. The Examiner concludes that since the binding is not removed until it is contacted by liquid, it would have been obvious to modify the seal in the Innovations Article in light of Bousche to permit gas to pass during normal operation. This is also incorrect.

As was explained in Applicant's Appeal Brief, the tape 25 in Bousche which dissolves in the well hole, which hole was analogized to the annular space of the present application, is not present or operative during any normal operating condition of the well hole pipe. At several locations, the Bousche specification indicates that the restraint 25 for the expandable membrane 20 is for the purpose of installing the single walled pipe with its sealing membranes into the well hole, and that the restraint on the membranes is removed or rendered inoperative before any normal operating conditions occur.

Fig. 3 of Bousche illustrates the use condition where the membrane 20 is expanded out, that is, the normal operating condition, at which gas flow in the annular space would be blocked. Fig. 4 does not show similar action at all, having no arrows indicating movement of materials, but rather shows a temporary installation condition, not a normal operating condition. Further, there is no suggestion that gas flow through the well hole would be contemplated or accounted for in Bousche.

Thus, Bousche also fails to disclose a seal assembly where “the seal under the normal operating conditions of the inner pipe and the annular space is in a non-sealing position which allows passage of a gas through the seal assembly.”

In addition, Bousche does not concern a double walled pipe, but rather concerns a single walled pipe in a well hole. A single walled pipe is not a double walled pipe, and a well hole is not an outer pipe of a double-walled pipe-in-pipe and a single walled pipe has no annular space between two pipes. One skilled in the art would not look to teachings of Bousche in any event when contemplating the design of a seal for a double walled pipe-in-pipe installation. Thus, even if Bousche did disclose the features of claim 1 described above, which it does not, it would not have been obvious to modify the pipeline of the Innovations Article to include these features.

Thus, neither the Innovations Article nor Bousche show or suggest a seal in the annular space and operable for sealing the annular space, “wherein the seal under the normal operating conditions of the inner pipe and the annular space is in a non-sealing position which allows passage of a gas through the seal assembly,” as is required by claim 1.

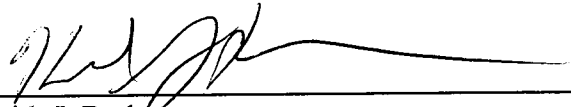
Accordingly, it is respectfully submitted that claim 1, and the claims depending therefrom, including claims 2-3 and 14-16, are patentable over the cited art and should be allowed. Claims 5-13 are also believed to be patentable over the cited art and in condition for allowance in their present form.

No fee or extension of time is believed necessary for the submission of this Reply Brief, however, if any fee or extension is required, the Patent Office is authorized to charge the fee for the fee or extension to Deposit Account No. 15-0700.

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Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Keith J. Barkaus', is written over a horizontal line.

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